

EXHIBIT B

STEVEN NOFFSINGER,

ORIGINAL

PLAINTIFF

VS.

THE VALSPAR CORPORATION, A DELAWARE CORPORATION,
d/b/a C & M COATINGS AND d/b/a VALSPAR INDUSTRIAL
AND ENGINEERED POLYMER SOLUTIONS, INC., d/b/a
ENGINEERED POLYMER SOLUTIONS, VALSPAR COATINGS, A
DELAWARE CORPORATION

DEFENDANTS

DEPOSITION OF

DR. JAMES WEDNER

SEPTEMBER 20, 2010

1 Q Okay. Would you think he might have it if
2 he was atopic, based on all the information you have
3 in front of you?

4 A Well, I -- from my reading of all of the
5 medical records, including the type of exposure he
6 had, I don't think he had much of an exposure. And
7 I don't think that he has significant either induced
8 asthma of any kind.

9 Q Okay. When you say based on the medical
10 records you've reviewed you don't think he had much
11 of a -- stop, strike that.

12 Let's just close the door on that
13 question. So the answer is no, you wouldn't, even
14 if you were atopic, you would not find that he had
15 not so sudden onset.

16 A Correct.

17 Q Okay. So classic or not so sudden, he
18 had -- doesn't have RADS as far as you're concerned.

19 A Correct.

20 Q Okay. Now as to not so sudden onset, one of
21 the reasons you just articulated was that you didn't
22 feel he had such a great exposure.

23 A Correct.

24 Q Okay. And what is your basis for saying
25 that?

1 A Well, and I can't quote the, the part of the
2 record in which they noted what was the amount of
3 exposure, but my understanding is that it was a
4 relatively, it was some paint fumes over a fairly
5 short period of time, he wasn't directly exposed to
6 them, it was underneath his trailer, and it was not
7 a particularly high level exposure.

8 Q Well, I understand you say you can't quote
9 where in the records they gave an indication as to
10 what the amount of the exposure was, but if I
11 represented to you that there's nowhere in any
12 record indicating what the amount of the exposure
13 is, would that surprise you?

14 A The exact amount, no. I don't think -- I
15 don't think anybody knows.

16 Q All right, okay. So how do you know that it
17 wasn't a large exposure?

18 A There, there is somewhere, and that's what I
19 can't quote for you, in the record where someone
20 commented upon the relative amount, and I can't put
21 my finger on it right at the moment.

22 Q Doctor, the only places that I'm aware of
23 where anybody has made any sort of analysis along
24 those lines are in the third party expert reports
25 that Valspar has commissioned. Do you think you

1 might be relying on one of those?

2 A I'm sure I read it somewhere, and I can't
3 tell you where.

4 Q Okay.

5 A So I wish I could, but -- I have those, I
6 may have read, I probably read them there, and
7 that's the basis for that opinion, yes.

8 Q Okay. Have you --

9 A I don't, it's certainly not in his medical
10 records, and I'm not trying to tell you it is.

11 Q Okay. But you are giving an opinion that
12 you think it was not a high dose.

13 A Correct.

14 Q Okay. You did not give that opinion in your
15 original paper, in your original document --

16 A No.

17 Q -- you, in fact, you bypass the question of
18 causation entirely, because you felt he didn't have
19 asthma.

20 A Correct, I still don't.

21 Q Okay. Okay. So this is a new opinion.

22 A Well, no, I mean you're asking me a question
23 because we're talking about RADS. I mean my opinion
24 hasn't changed.

25 Q Okay. But you're not --

1 with him would not be erroneous.

2 Q Okay. Well, let's continue, let's continue
3 with the criteria that Dr. Pacheco went through.

4 Number 3 refers to exposure in high
5 concentrations, exposure to an irritant in high
6 concentrations. I take it you have now given me
7 your opinion as to whether that --

8 A Correct.

9 Q -- criterion is met.

10 A I don't think that occurred.

11 Q Okay. And that's based on the third party
12 reports.

13 A Correct.

14 Q Okay. Number 4: Symptoms began within 24
15 hours of the exposure and persisted for at least
16 three months. Patient noted -- this is now
17 Dr. Pacheco referring to Mr. Noffsinger -- the
18 patient noted the acute onset of respiratory
19 symptoms during the exposure which have persisted
20 for nearly three and a half years.

21 A Right.

22 Q Parts of that you do not agree with,
23 correct?

24 A I do not agree with it.

25 Q Okay. Tell me what you disagree with.

Steven Noffsinger vs. The Valspar Corporation

Dr. James Wedner

9/20/2010

Page 133

1 State of Missouri

2 SS.

3 City of St. Louis

4 I, Pamela K. Needham, a Notary Public in and
5 for the State of Missouri, duly commissioned,
6 qualified and authorized to administer oaths and to
7 certify to depositions, do hereby certify that
8 pursuant to Notice in the civil cause now pending
9 and undetermined in the United States District Court
10 For the Northern District of Illinois, Eastern
11 Division, to be used in the trial of said cause in
12 said court, I was attended at the offices of Dr.
13 James Wedner, 4990 Children's Place, Northwest Tower
14 Bldg., 15th Floor, in St. Louis, Missouri, by the
15 aforesaid attorneys; on the 20th day of September,
16 2010.

17 The said witness, being of sound mind and being
18 by me first carefully examined and duly cautioned
19 and sworn to testify the truth, the whole truth, and
20 nothing but the truth in the case aforesaid,
21 thereupon testified as is shown in the foregoing
22 transcript, said testimony being by me reported in
23 shorthand and caused to be transcribed into
24 typewriting, and that the foregoing page correctly
25 set forth the testimony of the aforementioned

Steven Noffsinger vs. The Valspar Corporation

Dr. James Wedner

9/20/2010

Page 134

1 witness, together with the questions propounded by
2 counsel and remarks and objections of counsel
3 thereto, and is in all respects a full, true,
4 correct and complete transcript of the questions
5 propounded to and the answers given by said witness;
6 that signature of the deponent was not waived by
7 agreement of counsel.

8 I further certify that I am not of counsel or
9 attorney for either of the parties to said suit, not
10 related to nor interested in any of the parties or
11 their attorneys.

12 Witness my hand and notarial seal at St. Louis,
13 Missouri, this 27th day of September, 2010.
14 My Commission expires October 12, 2013.

15
16 

17 Notary Public in and for the
18 State of Missouri

